

BEFORE THE ARIZONA CORPORATION COMMISSION

1 IN THE MATTER OF THE COMMISSION) DOCKET NO.
2 ON ITS OWN MOTION INVESTIGATING) T-000000A-01-0538
3 THE FAILURE OF NUMEROUS UTILITIES)
4 TO FILE ANNUAL REPORTS.)
5)

At: Phoenix, Arizona

Date: January 15, 2002

Filed: JAN 28 2002

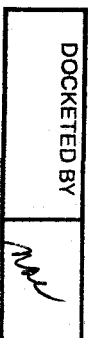
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REPORTER'S TRANSCRIPT OF PROCEEDINGS

Arizona Corporation Commission
DOCKETED

JAN 28 2002

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ARIZONA CORPORATION COMMISSION
HEARING DIVISION

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I N D E X

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WITNESSES

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CARMEN MADRID

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Direct Examination by Mr. Sabo
Examination by ALJ Dion

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INDEX TO EXHIBITS

13

NO.

DESCRIPTION

IDENTIFIED

ADMITTED

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S-1

Memorandum to Docket Control
from Carmen Madrid,
January 14, 2002

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S-2

Comments & Corporate Status,
January 14, 2002

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S-3

Companies Remaining on the
2000 OSC, January 15, 2002

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1 BE IT REMEMBERED that the above-entitled and
2 numbered matter came on regularly to be heard before
3 the Arizona Corporation Commission, 1200 West
4 Washington Street, Phoenix, Arizona, commencing at
5 10:15 a.m., on January 15, 2002.

6

7 BEFORE: PHILIP J. DION III
8 Administrative Law Judge

9 APPEARANCES:

10 For Commission Staff:

11 Mr. Timothy J. Sabo
12 Staff Attorney, Legal Division
13 1200 West Washington Street
Phoenix, Arizona 85007

14 CAROLYN T. SULLIVAN, RPR
15 CCR No. 50528

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1 ALJ DION: Good morning and welcome to the
2 Arizona Corporation Commission. My name is Phil Dion,
3 and this is Docket No. T-00000A-01-0538. It's the
4 matter of the Commission on its own motion
5 investigating the failure of numerous utilities to
6 file annual reports.

7 This is the time set for the hearing in this
8 matter. The hearing was set by procedural order that
9 was dated October 15th of 2001. The time set for the
10 hearing was 10:00. It's now 10:20.

11 And I will take appearances at this point.
12 On behalf of the Staff.

13 MR. SABO: Tim Sabo for the Commission Staff,
14 Your Honor.

15 ALJ DION: Good morning, Mr. Sabo.

16 And like I said, we've waited 20 minutes, and
17 we have not received -- or excuse me, there are no
18 other parties present at the hearing today.

19 Additionally, Mr. Sabo, it's my understanding
20 that there have -- between the last time we were here
21 at the preconference and today, the remaining
22 companies in the complaint, none of them have
23 complied; is that correct?

24 MR. SABO: That's correct, Your Honor.

25 ALJ DION: And the names of the companies

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1 that have complied were Laundry World; Texas OAP,
2 Incorporated; Atlantic Telecom; Public Communications
3 Services, Incorporated; Babe's Cabaret; Tri-City
4 Vending Services -- there's a hyphen between Tri and
5 City -- and Gaslight Theatre as well as Adventure
6 Communications and Tele-Pro -- and a hyphen between
7 the words Tele and Pro -- Tele-Pro Independent
8 Contractors. Those are the only named complainants --
9 respondents, excuse me. Those are the only named
10 respondents that have complied in this case; is that
11 right, Mr. Sabo?

12 MR. SABO: That's my understanding, Your
13 Honor.

14 ALJ DION: And the remainder of the companies
15 have not been in contact with the Commission regarding
16 this matter. Is that also your understanding?

17 MR. SABO: That's correct, Your Honor, and
18 we'll go into detail during the testimony on that
19 point.

20 ALJ DION: Why don't we do that, Mr. Sabo.
21 Do you have any opening statement for me today?

22 MR. SABO: I'll waive opening, Your Honor.

23 ALJ DION: At this point, I'd request that
24 you call your first witness.

25 MR. SABO: Staff calls Carmen Madrid.

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1 CARMEN MADRID,
2 called as a witness on behalf of Staff, having been
3 first duly sworn by the Certified Court Reporter, was
4 examined and testified as follows:

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DIRECT EXAMINATION

7

8 Q. (BY MR. SABO) Ms. Madrid, please state your
9 name and work address for the record.

10 A. Carmen Madrid. 1200 West Washington,
11 Phoenix, Arizona.

12 Q. And by whom are you employed and in what
13 capacity?

14 A. I'm employed by the Arizona Corporation
15 Commission Utilities Division, and I'm an
16 administrative assistant to the annual report
17 administrator in the Compliance & Enforcement Section.

18 Q. Can you describe your duties in that
19 position.

20 A. I'm in charge of sending and receiving annual
21 report filings and documenting intranet databases and
22 making sure that companies have complied with the
23 requirements associated with annual reports.

24 Q. Can you describe the procedures for filing
25 annual reports with the Commission.

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1 A. By law, all public service corporations must
2 file a Utilities Division annual report with the
3 Commission per statutes and Commission rules. Blank
4 annual report forms are mailed to each utility company
5 each year.

6 Q. Can you describe the procedures if an annual
7 report is received.

8 A. A list of companies that were sent annual
9 reports is formed, and as the reports come in, they
10 get their name taken off the list, and the annual
11 report is documented into the database. And if they
12 are not received, then we send out notices for
13 delinquencies.

14 Q. And can you describe your procedures for what
15 happens once this delinquent notice is sent out.

16 A. The delinquent notice is sent out to a last
17 known address with the line set for the report to be
18 filed. After the final delinquent notice is sent,
19 another one is sent, giving them another chance. And
20 then if no response, then we try to make telephone
21 contact with the companies. And if nothing comes up,
22 we issue an OSC.

23 Q. Or, rather, you recommend that the Commission
24 issue the OSC?

25 A. Right.

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1 Q. Have you prepared a list of companies in this
2 docket that have not yet filed annual reports?

3 A. Yes, I have.

4 MR. SABO: Your Honor, that list has been
5 marked as S-1, and we would move that it be admitted
6 at this time.

7 ALJ DION: It shall be admitted into
8 evidence.

9 Q. (BY MR. SABO) And, Ms. Madrid, have you also
10 prepared a chart showing all Staff's attempts to
11 contact these companies by mail and telephone and also
12 showing the corporate status of the companies?

13 A. Yes, I have.

14 Q. I show you a document marked S-2. Is that
15 that document?

16 A. Yes, it is.

17 MR. SABO: Your Honor, we would move at this
18 time that Exhibit S-2 be admitted.

19 ALJ DION: It shall be admitted into
20 evidence.

21 Q. (BY MR. SABO) Ms. Madrid, did you receive
22 from the Commission's Docket Control an open meeting
23 item showing a recommended report and order issued by
24 Administrative Law Judge Marc E. Stern issuing an
25 order to show cause for failure to file annual reports

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1 in 1999?

2 A. Yes, I did.

3 Q. And have you prepared a list that shows a
4 number of the companies in the '99 are repeated in the
5 2000; is that correct?

6 A. Yes, it is.

7 Q. Have you prepared a list of companies that
8 are not being terminated by the recommended order,
9 should it be adopted, and that would remain in this
10 docket to be terminated?

11 A. Yes, I did.

12 Q. And I show you a document marked S-3. Is
13 that the document to which you were referring?

14 A. Yes, it is.

15 MR. SABO: We would move at this time that
16 Exhibit S-3 be admitted.

17 ALJ DION: S-3 shall be admitted into
18 evidence.

19 Q. (BY MR. SABO) Ms. Madrid, can you discuss
20 what sanctions Staff considers appropriate in this
21 case.

22 A. We recommend that the certificates be
23 revoked.

24 Q. And do you recommend that there be any fine
25 in these cases?

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1 A. Yes, we do.

2 Q. Ms. Madrid, the recommended report and order
3 in the '99 case had a \$200 fine. Is that acceptable
4 to Staff?

5 A. Yes, it is.

6 MR. SABO: Your Honor, I have nothing further
7 for Ms. Madrid.

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EXAMINATION

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11 Q. (BY ALJ DION) Ms. Madrid, if I understand
12 you, for each company, you are recommending that their
13 Certificate of Convenience and Necessity be revoked;
14 is that correct?

15 A. Yes, it is.

16 Q. And you're also recommending that for each
17 individual, a fine of \$200 is appropriate in this
18 matter. Is that also correct?

19 A. Yes, it is.

20 Q. Now, as I recall, there are some companies
21 that have multiple years -- or at least it's alleged
22 that they have past due reports for multiple years
23 dating back to 1998 or so. Is that also correct?

24 A. Yes, it is.

25 Q. However, there are -- and there are a couple

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1 companies that are just delinquent for the year 2000;
2 is that right?

3 A. Right.

4 Q. Just briefly, for the record, those annual
5 reports were due in the year 2000, correct? How are
6 they determined? Is it from the date of their
7 incorporation? Is that the -- basically, how do you
8 determine at what point in the year 2000 someone's
9 annual report is due?

10 A. We try to give them at least six months. If
11 they received their Certificate of Convenience and
12 Necessity before the sixth month, June, of the prior
13 year, then they are required to start filing their
14 annual reports as of that year.

15 Q. And if they were to get a Certificate of
16 Convenience and Necessity after June, then you would
17 ask for an annual report in the following year; is
18 that correct?

19 A. The following year, right.

20 Q. So at a minimum, these companies have had all
21 of 2001 to comply with filing their annual report that
22 was due in 2000; is that correct?

23 A. Yes.

24 Q. And in some cases, these companies have had
25 until today in 2002 to file their annual reports for

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1 the years 1998 or 1999 and 2000. Is that also
2 correct?

3 A. Yes, it is.

4 Q. And so it is your opinion that the Commission
5 has given these particular companies ample time to
6 correct these remedies; is that correct?

7 A. Yes, it is.

8 Q. And, additionally, the notice to these
9 companies regarding their delinquent reports was sent
10 to the address that was on file with the Commission.
11 Is that also correct?

12 A. Yes, it is.

13 Q. If you know, Ms. Madrid, we're here today
14 about their failure to file reports -- their alleged
15 failure to file reports and the CC&N. Is there any
16 sort of action in the Corporations Section if a
17 company has not filed its annual report? Do you have
18 anything over there that happens?

19 A. According to -- we're looking at our database
20 on our intranet. They get revoked. I don't know if
21 they have hearings, but it's listed as being closed.

22 ALJ DION: Mr. Sabo.

23 MR. SABO: Your Honor, if I could shed some
24 light on that, I typically am the counsel for the
25 Corporations Division, as well. And I'm not sure if

1 your question refers to the utilities annual report or
2 the regular corporations annual report.

3 ALJ DION: You know, just the -- I'm assuming
4 that if they haven't filed a utilities annual report,
5 they haven't filed an annual report over at the
6 Corporations Section. Is that fair to say?

7 MR. SABO: That's usually the case, although
8 in some situations, they will file. And, for example,
9 on Exhibit S-3, there are I think two companies whose
10 corporate status appears to still be valid.

11 ALJ DION: Which two of those?

12 MR. SABO: Advanced Telecom, Integrators,
13 Inc., and High Country Communications, L.L.C.

14 ALJ DION: And the address that we have for
15 both of those entities is the same address that they
16 would have over at the Corporations Section; is that
17 correct.

18 THE WITNESS: Yes, it is.

19 MR. SABO: And, Your Honor, I would note that
20 those both appear to be relatively recent companies,
21 and sometimes there is a lag over at the Corporations
22 Division in terms of revoking.

23 ALJ DION: And do they actually do that --
24 that really is my question, Mr. Sabo. If a company --
25 utility aside, if a company doesn't file its annual

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1 reports over at the Corporations Section, do they then
2 revoke their status in Arizona?

3 MR. SABO: Yes. Eventually, the company will
4 be administratively dissolved pursuant to Title 10 or,
5 if it's an LLC, Title 29.

6 ALJ DION: I don't have any other questions
7 for Ms. Madrid.

8 Did you have any follow-up on things that I
9 asked?

10 MR. SABO: No, Your Honor.

11 ALJ DION: Then at this time, that will
12 conclude the hearing in this matter, and I will take
13 this matter under advisement and prepare a proposed
14 opinion and order for the Commission's consideration.

15 Thank you very much.

16 MR. SABO: Thank you, Your Honor.

17 (The hearing concluded at 10:35 a.m.)

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1 STATE OF ARIZONA)
2 COUNTY OF MARICOPA) ss.

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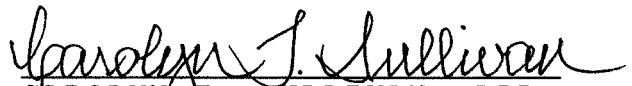
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I, CAROLYN T. SULLIVAN, Certified Court
Reporter No. 50528 for the State of Arizona, do hereby
certify that the foregoing printed pages constitute a
full, true and accurate transcript of the proceedings
had in the foregoing matter, all done to the best of
my skill and ability.

WITNESS my hand this 22nd day of January,

2002.


CAROLYN T. SULLIVAN, RPR
Certified Court Reporter
Certificate No. 50528